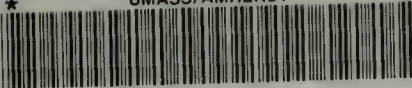


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The Commonwealth of Massachusetts

ADMINISTRATIVE BULLETIN

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

GOVERNMENT DOCUMENTS
COLLECTION

82-5

December 30, 1982

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University of Massachusetts

TO: ALL STATE AGENCIES
Depository CopyRE: REVISED DATA PROCESSING PROCUREMENT REGULATIONS
801 CMR 5.00

This Bulletin establishes revised regulations pertaining to procurement policies and procedures for Automatic Data Processing Equipment, Software, Systems and Services. These regulations supersede the prior regulations published as 801 CMR 5.00, and shall be effective upon publication of the revised regulations by the Secretary of State. This Bulletin rescinds Administrative Bulletin 78-11, including the supplemental guidelines published therein.

All agencies and secretariats should familiarize themselves with the new regulations, which shall apply to all ADP procurements.

A copy of the newly-revised Form AF-29 (Rev. 12/82) is attached to this Bulletin. Prior versions of the form shall be discarded.

The Bureau for Systems Policy and Planning (BSPP) is the unit within the Executive Office for Administration and Finance which is responsible for the administration of these regulations on behalf of the Secretary of Administration. Questions regarding the regulations and Form AF-29 shall be directed to:

Bureau for Systems Policy and Planning
John W. McCormack State Office Building
One Ashburton Place, Room 1601
Boston, Massachusetts 02108
Tel # (617) 727-2160

A handwritten signature in dark ink, appearing to read "David M. Bartley".

DAVID M. BARTLEY
SECRETARY OF ADMINISTRATION

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GENERAL PROVISIONS

5.01: Application, Purpose, Scope and Authority.

- (1) No Agency shall initiate any encumbrance or make any expenditure of state or federal funds, whether appropriated or not, for the procurement of ADP Resources except in compliance with these regulations.
- (2) The purpose of these regulations is to assure that every procurement of ADP Resources:
 - (a) is based on adequate analysis of the needs and objectives of the procuring Agency that the procurement is intended to serve;
 - (b) obtains goods and services which are appropriate to those needs and objectives, and consistent with the ADP goals of the Commonwealth as a whole;
 - (c) obtains those goods and services upon prudent contract terms;
 - (d) is within the means of the procuring Agency to manage and support; and
 - (e) conforms to laws of general application.
- (3) These regulations set forth the respective functions and responsibilities of the procuring agencies, their respective secretariats, and the Executive Office for Administration and Finance and subdivisions thereof, including the Bureau for Systems Policy and Planning and the Purchasing Agent's Division, in the procurement of ADP Resources. Vendors' rights hereunder include only the rights specifically granted to them by these regulations, and rights to which they are entitled by necessary implication of law.
- (4) These regulations are adopted under the authority of M.G.L. c. 7, ss. 4 and 22, and M.G.L. c. 29, ss. 27B and 29A.

5.02: Prior Regulations.

- (1) These regulations repeal the regulations adopted as Administrative Bulletin No. 78-11 as amended to the effective date hereof, previously published as 801 CMR 5.00; but they shall not abridge any rights or obligations of the Commonwealth or of a Contractor under a contract in existence on the effective date hereof.

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- (2) These regulations shall supersede any contrary provisions contained in the following regulations, with respect to vendor selection and contracting for Hardware, Software, Systems or Services:
 - (a) The regulations adopted as Administrative Bulletin No. 82-1, and amendments and revisions thereof.
 - (b) The regulations adopted in 1923 as "Rules and Regulations Governing Purchasing," and amendments and revisions thereof.

5.03: Definitions.

- (1) Each of the following terms shall have the meaning assigned in this section, unless another meaning is obvious from the context:

ADP. Automatic Data Processing; the use of Hardware and Software to reduce the need for human intervention in Data Processing and increase its speed and accuracy.

ADP Resources. Hardware, Software, Systems or Services, or any combination of them, as the context permits.

Agency. Any subdivision of the executive branch of the government of the Commonwealth, including but not limited to any executive office, department, division, bureau, board, commission or committee therein, but excluding public institutions of higher learning, and the departments of the Attorney General, State Secretary, State Auditor and State Treasurer.

Agency ADP Plan. A document prepared and periodically revised by an Agency, to guide its use and procurement of ADP Resources in a manner consistent with the Commonwealth ADP Plan and the applicable Secretariat ADP Plan. Each Agency ADP Plan shall:

- (a) Describe the Agency's missions.
- (b) Describe the problems, opportunities and issues to be addressed by the Agency in its plans for the use and procurement of ADP resources.

- (c) Indicate the order of priority for addressing the problems, opportunities and issues described under paragraph (b).
- (d) Describe the ADP Resources currently available within the Agency and their applications to the Agency's missions, indicating any reductions expected to result from obsolescence, contract expirations, funding constraints or other unavoidable factors.
- (e) describe anticipated acquisitions of ADP Resources and their intended applications to the Agency's missions stating relevant dependencies, such as staffing and other constraints on acquisition, use and maintenance.
- (f) Provide specific action plans, in the order of priority indicated under paragraph (c), to address the problems, opportunities and issues described under paragraph (b), and to accomplish the acquisitions described under paragraph (e).
- (g) Describe the procedures the Agency will follow to carry out and control the action plans provided under paragraph (f).

Benchmark. A standardized program or task used to test the performance of an item of Hardware or a System.

Blanket Hardware Contract. A contract made with a Contractor by the Executive Office for Administration and Finance which specifies particular items of Hardware, and the prices and other contract terms on which they may be leased, rented or purchased by any Agency during the term of the contract.

BSPP. Bureau for Systems Policy and Planning; the unit within OMIS responsible for the administration of these regulations.

Business Specifications. A succinct statement of financial and contractual requirements which will apply to the contract resulting from a procurement.

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Commissioner. The Secretary of the Executive Office for Administration and Finance, in his capacity as Commissioner of Administration.

Commonwealth ADP Plan. A document prepared and periodically revised by BSPP declaring policies, priorities and strategies governing the use and procurement of ADP Resources by Agencies.

Consultant Contract. A contract in which:

- (a) the Contractor undertakes to provide Services rendered by one or more particular individuals named in the contract regarding matters in their fields of knowledge or training; and
- (b) substantially all of the Contractor's compensation is determined by a rate per unit of time spent by such individuals to provide those Services.

Contracting Team. One or more individuals appointed by the Commissioner under Section 5.36 to perform the duties assigned to them by Sections 5.40 through 5.84. All members of the Contracting Team must be full-time state employees in permanent (01) or temporary (02) positions and at least one must be a nominee of the requesting Agency.

Contractor. An individual, corporation or other entity which enters into a legally enforceable agreement with the Commonwealth to supply Hardware, Software, Systems or Services to an Agency.

Data Processing. The preparation and use of basic elements of information according to precise rules of procedure to accomplish such operations as recording, classifying, sorting, calculating, summarizing and transmitting information.

Evaluation Criteria. A statement of the factors to be used to judge the responsiveness and merits of proposals received in response to a Request For Proposals, and the standards and procedures to be used to compare and rank competing proposals.

Feasibility Study. An investigation:

- (a) to estimate the resources required for a proposed procurement, considering not only the expenditures anticipated under the contract resulting from the procurement, but also the time, money and other resources to be expended for related undertakings by the procuring Agency, such as staffing and site preparation;
- (b) to verify the availability of those resources; and
- (c) to determine whether the expected benefits of the procurement are sufficient to warrant the expenditure of those resources.

Hardware. ADP equipment, including any of the following:

- (a) Electronic computers that accept and store data, perform calculations and other processing steps, and produce useful information from that data.
- (b) All peripheral or auxiliary equipment used primarily in conjunction with an electronic computer, whether procured with the computer or separately.
- (c) Data transmission or communications equipment that is procured primarily for use in a system which includes an electronic computer.
- (d) Word processors and other office automation equipment.

Needs Analysis. A systematic study of the objectives of a proposed procurement, to prepare Technical Specifications for the Hardware, Software, Systems and Services to be procured.

OMIS. Office of Management Information Systems; an administrative unit within the Executive Office for Administration and Finance organized pursuant to Executive Order No. 166. OMIS includes the Bureau of Systems Operations and the Bureau for Systems Policy and Planning (BSPP).

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Procurement. The process or act of obtaining ADP Resources from commercial sources or, if the context permits, from a governmental organization.

Request. A request by an Agency for authorization and approval of a procurement of ADP Resources. It consists of a Request Form and supporting documents.

Request Form. A standardized document used to record a Request, and to record the actions of state officers and organizations whose approval or participation is required to carry out a procurement of ADP Resources. [Form AF-29 Rev. 12/82 is the Request Form in use on the effective date of this Section.]

Secretariat. One of the executive offices established under M.G.L. c. 6A or c. 7, or other provisions of the General Laws.

Secretariat ADP Plan. A document prepared and periodically revised by a Secretariat, containing:

- (a) a synthesis of the Agency ADP Plans submitted by its constituent Agencies, noting redundancies and inconsistencies among them; and
- (b) guidelines to its constituent Agencies, derived from and consistent with the Commonwealth ADP Plan, designed to promote consistency and coherence among constituent Agencies in the periodic revision of their Agency ADP Plans.

Selection Board. One or more individuals appointed by the Commissioner under Section 5.36 to perform the duties assigned to them by Sections 5.51 through 5.70. All members of the Selection Board must be full-time state employees in permanent (01) or temporary (02) positions and at least one must be a nominee of the requesting Agency.

Services. The furnishing of labor, time or effort by private contractors or, when the context permits, by governmental units, not involving the sale, rental or license of property to the Commonwealth. The term includes, but is not necessarily limited to:

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- (a) the labor of individuals qualified by education, experience or training to perform feasibility studies, needs analyses, system analyses, system design, system specification, programming, system implementation, system testing and other tasks relating to the planning, selection, design, development and use of ADP Resources;
- (b) the development, modification or maintenance of Software;
- (c) the maintenance or repair of Hardware; and
- (d) the use of Systems, including service bureau arrangements.

Software. Computer programs and procedures which control the operation and use of Hardware. Software includes operating systems, compilers, assemblers, utility programs, library routines, maintenance routines and application programs, and the associated documentation.

Solicitation. A request for proposals, or invitation for bids, or other communication issued to vendors on behalf of an Agency which:

- (a) specifies the goods and services the Agency intends to obtain (see Technical Specifications);
- (b) states the terms and conditions under which the Agency intends to obtain those goods and services (see Business Specifications);
- (c) invites submission of a bid or proposal to supply goods and services conforming to the Technical Specifications, upon terms and conditions conforming to the Business Specifications; and
- (d) informs vendors about the procedures they must follow to prepare and submit a responsive bid or proposal.

Statement of Work. A description of duties and tasks to be performed under a contract for Services.

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System. An interacting complement of ADP Resources and other resources organized to perform specific Data Processing operations and produce specific results.

System Analysis. The examination of existing information flow, Hardware capability and operational procedures within an organization. A system analysis generally consists of three basic phases: gathering data about the present system and its objectives; analysis of the data gathered; and synthesis of the parts and relationships revealed by the analysis into a design for more useful or more efficient information flow and operational procedures.

Technical Specifications. Succinct descriptions of the characteristics and capabilities of items of Hardware or Software, or of a System.

Vendor. An individual, corporation or other entity engaged in the business of supplying Hardware, Software, Systems or Services; a prospective Contractor.

Word Processor. A device which alone, or in conjunction with other devices, is capable of recording, storing and revising text from a keyboard or other input device on an electronic or magnetic storage medium, and reproducing that text automatically on command in typed or printed form.

5.04: Guidelines.

- (1) From time to time, BSPP may publish Guidelines designed to help Agencies comply with these regulations. The Guidelines may include interpretations of these regulations, as well as samples and descriptions of various documents required or permitted by these regulations.

5.05: Delegation.

- (1) Subject to the limitations contained in Sections 5.06 and 5.49, the Commissioner may delegate his powers and duties under these regulations to one or more officers or employees within the Executive Office for Administration and Finance. Delegations shall be made in

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writing, signed by the Commissioner, and shall be revocable by him at any time. Any delegation may be limited to acts, cases and circumstances identified in the instrument of delegation.

5.06: Waivers.

(1) The Commissioner may waive strict compliance with these regulations when he determines that:

- (a) the waiver is necessary to avoid substantial harm to the functioning of government, or to protect the public health, welfare or safety;
- (b) the waiver is necessary to achieve compliance with applicable federal regulations; or
- (c) the non-compliance is minor, and does not derogate significantly from the intent and purpose of these regulations.

(2) A waiver shall state the circumstances and reasons for it, and be signed by the Commissioner, or by a subordinate to whom the Commissioner has specifically delegated, in writing, the power to grant waivers under this section.

5.07: Severability.

(1) If any provision of these regulations or any application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

5.08: Cancellation of Procurements.

(1) Any procurement of ADP Resources may be cancelled at any time before an executed contract is accepted for filing by the Comptroller under Section 5.87. The procurement may be cancelled by:

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- (a) the officer in charge of the procuring Agency, by written notice to BSPP withdrawing the underlying Request; or
- (b) the Commissioner, by written notice to BSPP denying or revoking approval of the underlying Request.

5.09: Finality of Determinations.

- (1) Each determination made or approved by the Commissioner under these regulations shall be final and conclusive.

PLANNING

5.10: Agency ADP Plans.

- (1) Every Agency that uses or intends to use ADP Resources shall have at all times an Agency ADP Plan covering a period at least equal to the remainder of the current fiscal year and the succeeding fiscal year. The Agency shall revise its plan as often as necessary to keep it current, to conform it to the applicable Secretariat ADP Plan and to maintain the required period of coverage. BSPP shall establish procedures to coordinate the preparation and revision of Agency ADP Plans, so far as practicable, with the annual budget and schedule preparation procedures required of Agencies by M.G.L. c. 29, s. 3 et seq.
- (2) Each Agency shall deliver its Agency ADP Plan, and all revisions, to its Secretariat or, if the Agency does not report to any Secretariat, to BSPP. Each Agency's ADP Plan shall be subject to review by BSPP and by the Agency's Secretariat at any time. The Secretariat or BSPP may delay action on any pending Request until the Agency ADP Plan of the requesting Agency is complete and current.

5.11: Secretariat ADP Plans.

- (1) Every Secretariat shall have at all times a Secretariat ADP Plan covering a period at least equal to the remainder of the current fiscal year and the succeeding fiscal year. Each Secretariat shall revise its plan as often as necessary to keep it current, to conform it to the Commonwealth ADP Plan, and to maintain the required period of coverage. BSPP shall establish procedures to coordinate the preparation and revision of Secretariat ADP Plans, so far as practicable, with the annual budget and schedule preparation procedures required of Secretariats by M.G.L. c. 29, s. 3 et seq.
- (2) Each Secretariat shall deliver its Secretariat ADP Plan and all revisions to BSPP. Each Secretariat ADP Plan shall be subject to review by BSPP at any time. BSPP may delay action on any pending Request by a constituent Agency of the Secretariat until the Secretariat ADP Plan is complete and current.

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5.12: Commonwealth ADP Plan.

- (1) BSPP shall have at all times a Commonwealth ADP Plan, covering a period at least equal to the remainder of the current fiscal year and the succeeding fiscal year. BSPP shall revise the plan as necessary to keep it current and to maintain the required period of coverage. The preparation and revision of the Commonwealth ADP Plan shall be coordinated, so far as practicable, with the preparation of Agency and Secretariat ADP Plans.

5.13 - 5.19: [Reserved].

METHODS OF VENDOR SELECTION

5.20: Vendor Selection Methods.

- (1) These regulations describe five methods of vendor selection:
 - (a) Competitive Proposals, Sections 5.40 - 5.54;
 - (b) Competitive Bids, Sections 5.55 - 5.65;
 - (c) Small Purchases, Sections 5.66 - 5.74;
 - (d) Non-Competitive Selection, Sections 5.75 - 5.79; and
 - (e) Emergency Selection, Sections 5.80 - 5.84.
- (2) Contracts to supply ADP Resources shall be made only with vendors selected under the Competitive Proposals method unless BSPP determines, consistent with the conditions for use stated in the next section, that the Competitive Proposals method would be impracticable or disadvantageous in the particular case and the Commissioner approves in writing the use of one of the other four methods.

5.21 Conditions For Use.

- (1) Competitive Proposals. Competitive proposals shall be solicited for all procurements of ADP Resources unless one of the other methods of vendor selection is approved by the Commissioner under Section 5.20.
- (2) Competitive Bids. Competitive bids may be solicited if the nature of the procurement permits award to a low bidder who agrees without condition or reservation to perform in accordance with the specifications and conditions contained in an Invitation For Bids. Factors to be considered in determining whether competitive bids are appropriate in the particular case include:
 - (a) whether a prudent contract can reasonably be made on a fixed-price basis, without negotiation of the technical, contractual or price aspects of the vendors' offers; and
 - (b) whether the primary consideration (assuming minimum specifications are met) is price, without regard to differences in technical and performance capability and other quality factors.

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(3) Small Purchases. The small purchase procedure may be used if:

- (a) the conditions for use of competitive bids stated in paragraph (2) apply;
- (b) the subject of the procurement is primarily the purchase, lease or rental of Hardware;
- (c) there are not fewer than three responsible vendors capable of submitting responsive bids; and
- (d) the total amount payable under the contract cannot reasonably be expected to exceed \$5,000.00 in any one fiscal year or \$15,000.00 in the aggregate.

(4) Non-Competitive Selection.

- (a) A vendor for specified ADP Resources may be selected without competition if a reasonably diligent investigation has revealed only one vendor who can meet the applicable Technical and Business Specifications, and the specifications which exclude other vendors are not unreasonably restrictive. Factors which may be taken into account in determining the reasonableness of the restrictive specifications include, but are not limited to, the consequences of incompatibility of the items to be procured with existing Hardware, Software and Systems, and the costs and risks which would be incurred to achieve compatibility.
- (b) A vendor for specified ADP Resources may be selected without competition if a request for proposals or an invitation for bids has failed to elicit any responsive proposals or bids.
- (c) Software and Services may be obtained without competition from an agency or unit of the federal or any state government which customarily provides Software or Services to other units of government, with or without charge.
- (d) Consultant Contracts may be awarded to Contractors selected without competition.
- (e) A contract exclusively for specified technical and professional Services may be awarded to a vendor selected without competition if the relevant capabilities of the vendor including, but not limited to, the experience of named individuals whose per-

sonal services the vendor agrees to deliver, so specially qualify the vendor that the selection of any other vendor would be impracticable or disadvantageous to the Commonwealth.

- (f) Any contract with a vendor selected without competition pursuant to paragraphs (a) and (e) of this subsection shall be limited in scope and duration, so far as practicable in the circumstances, to the goods for which the vendor is a sole source, or to the Services for which the vendor is a specially qualified source.

- (5) Emergency Selection. A vendor for specified ADP Resources may be selected under the emergency procedure when the Commissioner determines that:

- (a) unforeseen circumstances require the immediate acquisition of the specified ADP Resources to avoid substantial harm to the functioning of government, or to protect the public health, welfare or safety; and
- (b) the delay caused by using the selection method that would otherwise have been appropriate will substantially increase the threat of such harm.

Emergency procurements shall be limited, so far as practicable, to the minimum quantity and duration necessary to meet the emergency.

5.22 - 5.29: [Reserved].

AUTHORIZATION TO PROCURE

5.30: Procurement Coordinator.

- (1) The officer in charge of an Agency initiating a procurement of ADP Resources shall appoint an officer or employee of the Agency to serve as the Procurement Coordinator concerning that procurement. In addition to the specific duties described in these regulations, the Procurement Coordinator shall coordinate the Agency's interactions with its Secretariat and BSPP.

5.31: Notice of Proposed Procurement.

- (1) The Procurement Coordinator shall notify BSPP by letter or memorandum that the Agency intends to procure ADP Resources. The Notice of Proposed Procurement shall:
 - (a) Identify the Agency and the name and address of the administrative unit or division to which the goods and services are to be delivered.
 - (b) State the name, address, telephone number and title of the Procurement Coordinator.
 - (c) Describe in general terms the ADP Resources the Agency intends to obtain.
 - (d) Identify the form of contract the Agency expects to make with the selected vendor.
 - (e) Summarize briefly the Agency needs the procurement is expected to satisfy.
 - (f) State whether the Agency intends to request a method of vendor selection other than competitive proposals and, if the method to be requested is non-competitive, the Agency's choice of vendor.

5.32: Screening Conference.

- (1) An employee of BSPP shall confer with the Procurement Coordinator, to review the Notice of Proposed Procurement, to offer advice concerning the nature and scope of the procurement or procurements appropriate to the needs described in the notice, and to offer assistance in the preparation of one or more Request Forms. At the request of the Agency or its Secretariat, other officers or employees of the Commonwealth may partic-

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ipate in the conference. The Director of BSPP may adjourn and reconvene the conference, if necessary to accommodate their participation, or to complete the work described in this section.

- (2) At or following the screening conference, BSPP shall indicate the nature and scope of:
 - (a) the supporting documents BSPP requires the Agency to submit with the Request Form;
 - (b) the Technical and Business Specifications the Agency must prepare for delivery to the Selection Board; and
 - (c) the justification necessary to support an Agency request, if any, to select a vendor by any method other than competitive proposals.

If the Request includes Services, a Statement of Work may be required instead of, or in addition to, Technical Specifications.

- (3) BSPP shall consider the nature, importance and magnitude of the ADP Resources requested, in determining what supporting documents it deems necessary to enable BSPP to review the request adequately and justify its approval. Examples of the kinds of supporting documents BSPP may require are:
 - (a) indicated portions of the Agency ADP Plan, with any updates or revisions necessary to reconcile the plan with the Request;
 - (b) a Feasibility Study report;
 - (c) a Needs Analysis report;
 - (d) a System Analysis report;
 - (e) a report on the results of an advertised request for information or similar inquiry into the market availability of relevant ADP Resources.

5.33: Preparation and Submission of Request.

- (1) The Procurement Coordinator shall prepare a Request Form and coordinate the preparation of the supporting documents. The Request Form shall:

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- (a) provide the descriptive and fiscal information indicated by the Request Form;
 - (b) state whether funds sufficient to cover the amounts to be paid to the Contractor in the fiscal year in which the contract term is to begin are available in the appropriation account identified as the source of funding; and
 - (c) if the Request includes Hardware or Systems, state whether the ADP Resources requested are prescribed in schedules approved by the House and Senate Committees on Ways and Means for the fiscal year referred to in paragraph (b).
- (2) To the extent required by the policies of its Secretariat, the Agency shall consult with its Secretariat before and during the preparation of the Request Form and supporting documents. The Procurement Coordinator shall deliver the completed Request Form and the supporting documents to the Secretariat when:
- (a) The Request Form and supporting documents have been completed in the form and manner indicated by BSPP as a result of the screening conference; and
 - (b) The officer in charge of the Agency has approved them and signed the Request Form.

5.34: Secretariat Review.

- (1) The Secretary of each Executive Office shall review each Request submitted by its constituent agencies. If he approves a Request, he shall indicate his approval on the Request Form and sign it before the Request Form and supporting documents are delivered to BSPP.
- (2) If the Secretary disapproves the Request, he shall notify BSPP and the Agency. He may also recommend to the Agency modifications which would induce him to approve the Request, if resubmitted. The Agency may then elect whether to withdraw the Request, or to reconvene the screening conference with a representative of the Secretariat in attendance.
- (3) The Secretary shall disapprove the Request if he finds that:
 - (a) the Request Form is inaccurate or incomplete in any material way;

- (b) the supporting documents are inadequate for the purposes stated in Subsection 5.01(2); or
- (c) the intended procurement is inconsistent with the Secretariat ADP Plan.
- (4) If the Agency does not report to any Secretariat, the Project Director shall deliver the Request directly to BSPP, and this section shall not apply.

5.35: BSPP's Review of Request.

- (1) BSPP shall review each Request submitted with Secretariat approval, or submitted directly by an Agency under Section 5.34(3). If BSPP approves the Request, it shall proceed in accordance with paragraphs (3) and (4) of this section. If BSPP disapproves the Request, it shall notify the Agency and the Secretary, indicating the reasons, and allow a reasonable time for the Agency to elect whether it will withdraw the Request, reconvene the screening conference, or seek review of the disapproval under Section 5.36(2).
- (2) BSPP shall disapprove a Request if it finds that:
 - (a) the Request Form is inaccurate or incomplete in any material way;
 - (b) statutory requirements have not been met, including any general or special laws pertaining to budget schedules and funding;
 - (c) the supporting documents are inadequate for the purposes stated in Subsection 5.01(2);
 - (d) the Agency's needs and objectives can be met in a manner more advantageous to the Commonwealth than the intended procurement; or
 - (e) the intended procurement is inconsistent with the Commonwealth ADP Plan.
- (3) BSPP shall notify the Commissioner of its approval or disapproval of each Request.
- (4) If BSPP has approved a Request, its notice to the Commissioner shall include its recommendation concerning the vendor selection method to be employed, according to the conditions for use contained in Section 5.21. If the method recommended is non-competitive, the

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notice shall also recommend a choice of vendor. If the approved Request includes the sale, rental of licensing of property to the Commonwealth, the method of vendor selection and, if applicable, the choice of vendor shall require the concurrence of the Purchasing Agent.

- (5) If BSPP has approved a Request, BSPP may recommend to the Commissioner deletions, additions or substitutions to the list of persons nominated by the Agency and Secretariat to the Selection Board and the Contracting Team. Either or both may have as few as one, or as many as five members. In making these recommendations, BSPP shall consider the following factors:
 - (a) the scope and complexity of the goods and services to be procured;
 - (b) the probable effects of the procurement on the procuring agency and other units of government;
 - (c) the estimated costs of the procurement; and
 - (d) any nominations made in writing by the Agency, the Secretariat, or both.

5.36: Commissioner's Review of Request.

- (1) After such review as he deems appropriate, the Commissioner shall approve or disapprove each Request approved by BSPP. He may disapprove for any of the reasons listed in subsection (2) of Section 5.35, with the same result as if BSPP had disapproved. He may adopt the recommendations made by BSPP under subsections (4) and (5) of Section 5.35, or make such changes as he deems appropriate.
- (2) An Agency may appeal to the Commissioner for review of BSPP's disapproval of a Request. If the Commissioner, after such review as he deems appropriate, finds that the disapproval was unwarranted or unreasonable, he may approve the Request, in which event he shall add to the Request Form his decision concerning the composition of the Selection Board and Contracting Team, and his recommendation concerning the method of vendor selection.

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5.37: Notice of Approval or Disapproval.

- (1) BSPP shall notify the Agency and the Secretariat of the Commissioner's action. If the Request is approved, BSPP may also, in consultation with the Procurement Coordinator, establish a reasonable time schedule for carrying out the procurement. If the schedule is not met, the Commissioner may revoke his approval of the Request.

5.38: Delivery of Documentation to Selection Board.

- (1) Upon receipt of notice of approval of a Request, the Procurement Coordinator shall deliver to the Selection Board copies of the approved Request Form and supporting documents, and the Technical and Business Specifications prepared by the Agency. He shall also coordinate the delivery of clerical and technical support by the Agency to the Selection Board.

5.39: [Reserved].

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VENDOR SELECTION - COMPETITIVE PROPOSALS

5.40: Review of Specifications.

- (1) The Selection Board shall review the Technical and Business Specifications prepared by the Agency and make such corrections and additions as it deems necessary.
- (2) The Technical Specifications may include inspection and acceptance requirements. Technical Specifications may be expressed as functional specifications, performance specifications, or both, and may differentiate between mandatory (minimum) and desired characteristics. Pursuant to Subsection 5.32(2), a Statement of Work may be used instead of, or in addition to, Technical Specifications, when the procurement includes Services.
- (3) The Business Specifications may include bonding or other security requirements, and may include specific contract provisions, which may differentiate between mandatory and desired terms.

5.41: Preparation of Request For Proposals.

- (1) The Selection Board shall prepare a Request For Proposals, which shall include:
 - (a) the Technical Specifications;
 - (b) the Business Specifications;
 - (c) instructions and information concerning proposal format and submission requirements, including the date, time and place for the submission of proposals;
 - (d) a statement summarizing the major categories of factors included in the Evaluation Criteria prepared under Section 5.43, and indicating the relative importance of the categories;
 - (e) a statement that offerors who submit proposals determined to be reasonably susceptible of being selected for award may be required to discuss or clarify their proposals; and
 - (f) directions for obtaining access to any documents incorporated by reference in the Request For Proposals, to inspect or copy them.

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- (2) In the discretion of the Selection Board, and subject to the approval of BSPP, the Request For Proposals may include:
- (a) a performance schedule;
 - (b) if specifically requested by the Selection Board and authorized by BSPP, the Evaluation Criteria, in full;
 - (c) if specifically requested by the Selection Board and authorized by BSPP, provision for best and final offers;
 - (d) the maximum time to be allowed for contract negotiation and award;
 - (e) provisions for a pre-proposal conference open to all prospective offerors;
 - (f) provisions for receiving and answering questions by prospective offerors;
 - (g) provisions for amending the Request For Proposals, but amendment shall not be permitted after the date specified for submission of proposals;
 - (h) provisions for public opening of proposals;
 - (i) requirements for demonstrations, benchmarks, presentations or other evidence of responsiveness; and
 - (j) any other special instructions or information consistent with these regulations.

5.42: Multi-Step Proposals.

- (1) If specifically requested by the Selection Board and authorized by authorized by BSPP, the Request For Proposals may provide that each proposal shall be submitted and evaluated in its entirety, in a single step.
- (2) If Subsection (1) does not apply, the Request For Proposals shall provide that the Selection Board will not consider the prices offered in any proposal until after it has reviewed the other portions of all proposals, and viewed demonstrations, heard presentations, made site visits and performed benchmarks, if any are required or permitted by the Request For Proposals. In such event, the Request For Proposals shall require

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that each proposal state the proposed prices only in a document packaged and submitted separately from the rest of the proposal. The Request For Proposals may require simultaneous submission of all proposal documents, or it may specify a later date and time for the submission of the document containing the proposed prices.

5.43: Evaluation Criteria.

- (1) The Selection Board shall prepare Evaluation Criteria reasonably designed to facilitate the comparative evaluation of responsive proposals from responsible offerors, and the ranking of those proposals in order of their advantage to the Commonwealth, price and other factors considered.
- (2) The Evaluation Criteria shall:
 - (a) provide for the disqualification of proposals which fail to meet specifications identified as mandatory in the Request For Proposals; and
 - (b) set forth the factors which, in addition to price and compliance with mandatory specifications, will be considered in the evaluation and ranking of proposals, and the relative importance of those factors.

5.44: BSPP's Review of Request For Proposals.

- (1) The Selection Board shall submit the Request For Proposals and the related Evaluation Criteria to BSPP, which shall either approve them and deliver them to the Purchasing Agent, or return either or both documents to the Selection Board for correction and resubmission.
- (2) BSPP will approve a Request For Proposals and the related Evaluation Criteria if it finds the Request For Proposals to be adequate in form and substance, in conjunction with the Evaluation Criteria, to elicit proposals which are:
 - (a) responsive to the needs and conditions described in the Request and supporting documents;
 - (b) capable of being compared with competing proposals on an equal footing;

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- (c) capable of being evaluated against the Evaluation Criteria; and
- (d) a sound basis for the negotiation of a prudent, complete and lawful contract.

5.45: Purchasing Agent's Review.

- (1) If the Purchasing Agent, after such review as he deems necessary, finds that the Request For Proposals or the related Evaluation Criteria violate applicable rules or procedures of the Purchasing Agent's Division, he shall return either or both documents to the Selection Board for correction and resubmission. Otherwise, he shall advertise and issue the Request For Proposals according to the rules and procedures of the Purchasing Agent's Division. The Purchasing Agent shall retain a copy of the Request for Proposals and the Evaluation Criteria.

5.46: Proposal Opening.

- (1) Proposals shall be submitted only to the office of the Purchasing Agent.
- (2) Proposals shall be opened at the time and place, and in the manner specified in the Request For Proposals.
- (3) The Purchasing Agent shall retain one copy of each proposal and make them available for public inspection after the time for the opening of proposals or, in the case of multi-step proposals, after the time for the opening of the document containing the proposed prices.
- (4) Subject to any provisions in the Request For Proposals for multi-step evaluation under Section 5.42, the Purchasing Agent shall deliver one copy of each proposal to BSPP and the remaining copies to the Selection Board for evaluation.

5.47: Clarification and Correction of Proposals.

- (1) The Selection Board may request, from responsible offerors whose proposals it determines are reasonably susceptible of being selected, additional information needed to clarify their proposals, to verify responsiveness to mandatory specifications, or to facilitate the fair comparison of competing proposals. If the Request For Proposals so states, under Subsection

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5.41(2)(c), supplementary submissions may be permitted for the purpose of obtaining best and final offers.

- (2) The Selection Board shall make records of all communications with offerors and make them available to BSPP and the Purchasing Agent. In the course of any such communications, no disclosure shall be made of any information derived from proposals submitted by competing offerors.
- (3) Offerors shall be accorded fair and equal treatment with respect to any opportunity for correction of proposals after submission and prior to selection. No correction of proposals prejudicial to the interests of the Commonwealth or to fair competition shall be permitted.

5.48: Evaluation of Proposals.

- (1) The Selection Board shall evaluate the proposals against the Evaluation Criteria and rank the responsive proposals. No criteria may be used for evaluation other than the Evaluation Criteria filed with the Purchasing Agent under Section 5.45. The Selection Board shall deliver a written report of their activities and recommendations to BSPP, with a copy to the Purchasing Agent.
- (2) No information relative to the evaluation and ranking of proposals shall be disclosed to any person prior to the approval of a contract under Section 5.86, except as specifically required by these regulations or by state or federal law.

5.49: Review of Selection Board Report.

- (1) BSPP shall review the Selection Board report and notify the Purchasing Agent as to BSPP's acceptance of the Selection Board's recommendations. The Purchasing Agent shall make such further review as he deems appropriate concerning the conformity of the vendor selection process with applicable rules and procedures of the Purchasing Agent's Division. If either BSPP or the Purchasing Agent finds that the evaluation was not conducted in conformity to these regulations, or that the report does not adequately support the recommendations made in it, they shall jointly meet with the Selection Board to review and discuss the evaluation and selection. The Selection Board may correct any

errors or omissions revealed by the joint review and amend the report accordingly. Unless within a reasonable period both BSPP and the Purchasing Agent accept the recommendations in an original or amended Selection Board report, the matter shall be referred to the Commissioner. After such review as he deems appropriate, the Commissioner shall order such actions as he deems necessary, in his discretion, to protect the interests of the Commonwealth and of competing offerors. Permissible actions include, but are not limited to, accepting the Selection Board's recommendations, revoking approval of the Request, or restarting the procurement at an earlier point in the approval or vendor selection processes.

- (2) Any order made under this section shall be signed by the Commissioner, or by a subordinate to whom the Commissioner has specifically delegated in writing the power to act under paragraph (1) of this section.

5.50: Notifications to Selected Offeror and Contracting Team.

- (1) The Purchasing Agent shall notify the selected offeror of its selection, and shall notify the Contracting Team to begin contract negotiation under Section 5.51. Award shall not be deemed to be made until negotiations are concluded and a contract has been approved under Section 5.86.

5.51: Negotiation of Contract.

- (1) The Contracting Team shall negotiate in good faith with the selected offeror, and submit the negotiated contract (before signature) to BSPP. The negotiated contract shall, so far as reasonably possible, satisfy all of the following objectives:
 - (a) Conform substantially to the scope, terms and conditions of the Request For Proposals, with due regard for fairness implicit in the public competitive procurement process.
 - (b) Resolve any discrepancies between the Request For Proposals and the selected offeror's response.
 - (c) Clarify ambiguities or omissions in the selected offeror's proposal.
 - (d) Address the needs, goals and objectives which prompted the procurement and be otherwise suitable

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for approval by the Commissioner and execution by the parties.

- (2) If the selected offeror is guilty of bad faith in the negotiation, or if for any other reason the parties are unable to agree upon a contract, the chairman of the Contracting Team shall report the circumstances to the Director of BSPP and the Purchasing Agent. After such review and discussion with the negotiators as he deems appropriate, the Director shall report his findings and recommendations to the Commissioner. The Commissioner shall order such actions as he deems necessary, in his discretion, to protect the interests of the Commonwealth and of competing offerors. Permissible actions include, but are not limited to, disqualifying the selected offeror and commencing negotiations with the next-ranked offeror, revoking approval of the Request, or restarting the procurement at an earlier point in the approval or vendor selection processes.
- (3) "Bad faith in the negotiation" includes, but is not limited to, the failure or refusal of the offeror to agree contractually to specifications, terms and conditions identified as mandatory in the Request For Proposals, or to any other affirmative claims or representations made in its proposal.

5.52: Debriefing of Unsuccessful Offerors.

- (1) Any offeror may request a debriefing within two weeks after receiving notice of contract approval under Section 5.87, to discuss the evaluation of its proposal with a member of the Selection Board. Requests for debriefing shall be delivered to the Chairperson of the Selection Board. The debriefing shall be held promptly after the request. Debriefing shall not include discussion of any competing proposals.

5.53 - 5.54: [Reserved].

VENDOR SELECTION - COMPETITIVE BIDS

5.55: Review of Specifications.

- (1) The Selection Board shall review the Technical and Business Specifications prepared by the Agency and make such corrections and additions as it deems necessary.
- (2) The Technical Specifications may include inspection and acceptance requirements. Pursuant to Subsection 5.32(2), a Statement of Work may be used instead of, or in addition to, Technical Specifications, when the procurement is for Services only.
- (3) The Business Specifications may include specific contract provisions, and may include bonding or other security requirements.

5.56: Preparation of Invitation For Bids.

- (1) The Selection Board shall prepare an Invitation For Bids, which shall include:
 - (a) the Technical Specifications;
 - (b) the Business Specifications;
 - (c) instructions and information concerning bid format and submission requirements, including the date, time and place for the submission and opening of bids; and
 - (d) directions for obtaining access to any documents incorporated by reference in the Invitation For Bids, to inspect or copy them.
- (2) In the discretion of the Selection Board, and subject to the approval of BSPP, the Invitation For Bids may include:
 - (a) a performance schedule;
 - (b) provisions for receiving and answering questions by prospective bidders;
 - (c) requirements for demonstrations, benchmarks, presentations or other evidence of responsiveness; and
 - (d) any other special instructions or information consistent with these regulations.

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5.57 BSPP's Review of Invitation For Bids.

- (1) The Selection Board shall submit the Invitation For Bids to BSPP, which shall either approve it and deliver it to the Purchasing Agent, or return it to the Selection Board for correction and resubmission.
- (2) BSPP will approve an Invitation For Bids it finds to be adequate in form and substance to elicit bids which are:
 - (a) responsive to the needs and conditions described in the Request and supporting documents;
 - (b) capable of being compared with competing bids on an equal footing; and
 - (c) a sound basis for a prudent, complete and lawful contract.

5.58: Purchasing Agent's Review.

- (1) If the Purchasing Agent, after such review as he deems necessary, finds that the Invitation For Bids violates applicable rules or procedures of the Purchasing Agent's Division, he shall return it to the Selection Board for correction and resubmission. Otherwise, he shall advertise and issue the Invitation For Bids according to the rules and procedures of the Purchasing Agent's Division.

5.59: Bid Opening.

- (1) Bids shall be submitted only to the office of the Purchasing Agent.
- (2) Bids shall be opened publicly in the office of the Purchasing Agent at the time and place designated in the Invitation For Bids.
- (3) The Purchasing Agent shall retain one copy of each bid and make them available for public inspection after the bid opening.
- (4) The Purchasing Agent shall deliver one copy of each bid to BSPP and the remaining copies to the Selection Board for evaluation.

5.60: Correction of Bids.

- (1) Bidders shall be accorded fair and equal treatment with respect to any opportunity for correction of bids after submission and prior to selection. No corrections in bid prices or other provisions of bids prejudicial to the interests of the Commonwealth or to fair competition shall be permitted.

5.61: Evaluation of Bids.

- (1) The Selection Board shall evaluate the bids for responsiveness to the Technical and Business Specifications and rank the responsive bids by prices bid. No criteria may be used for evaluation other than compliance with the specifications, and the prices bid. The Selection Board shall deliver a written report of their activities and recommendations to BSPP, with a copy to the Purchasing Agent.
- (2) No information relative to the evaluation and ranking of bids shall be disclosed to any person prior to the approval of a contract under Section 5.86, except as specifically required by these regulations or by state or federal law.

5.62: Review of Selection Board Report.

- (1) Review of the Selection Board report shall proceed in the same manner provided in Section 5.49.

5.63: Notifications to Selected Bidder and Contracting Team.

- (1) The Purchasing Agent shall notify the selected bidder of its selection. The Contracting Team shall confer with the selected bidder, prepare the contract for signature and submit it (before signature) to BSPP. Award shall not be deemed to be made until a contract has been approved under Section 5.86.

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5.64: Debriefing of Unsuccessful Bidders.

- (1) Any bidder may request a debriefing within two weeks after receiving notice of contract approval under Section 5.87, to discuss the evaluation of its bid with a member of the Selection Board. Requests for debriefing shall be delivered to the Chairperson of the Selection Board. The debriefing shall be held promptly after the award. Debriefing shall not include discussion of any competing bids.

5.65: [Reserved].

VENDOR SELECTION - SMALL PURCHASE PROCEDURE

5.66: Review of Specifications.

- (1) The Selection Board shall review the Technical and Business Specifications prepared by the Agency and make such corrections and additions as it deems necessary.
- (2) The Technical Specifications may include inspection and acceptance requirements.
- (3) The Business Specifications may include specific contract provisions, and may include bonding or other security requirements.

5.67: Preparation of Invitation For Bids.

- (1) The Selection Board shall prepare an Invitation For Bids conforming to Section 5.56 and submit it to the Purchasing Agent. BSPP shall not review the Invitation For Bids unless requested to do so by the Procurement Coordinator or the Purchasing Agent.

5.68: Purchasing Agent's Review.

- (1) If the Purchasing Agent finds that the Invitation For Bids violates applicable rules and procedures of the Purchasing Agent's Division, he shall return it to the Selection Board for correction and resubmission. Otherwise, he shall solicit responses to the Invitation For Bids from not less than three vendors chosen by him under applicable rules and procedures of the Purchasing Agent's Division.

5.69: Bid Opening.

- (1) Bids shall be submitted only to the Purchasing Agent's Division.
- (2) The Purchasing Agent's Division shall open the bids, retain one copy of each bid and make them available for public inspection after the bid opening.
- (3) The Purchasing Agent's Division shall deliver the remaining copies to the Selection Board for evaluation.
- (4) The provisions of Section 5.60 pertaining to the correction of bids shall apply.

5.70: Evaluation of Bids.

- (1) The Selection Board shall evaluate the bids for responsiveness to the Technical and Business Specifications and rank the responsive bids by prices bid. No criteria may be used for evaluation other than compliance with the specifications, and the prices bid. The Selection Board shall deliver a written report of their activities and recommendations to the Purchasing Agent. No information relative to the ranking and evaluation of bids shall be disclosed to any person prior to the approval of a contract under Section 5.86, except as required by these regulations or by state or federal law.

5.71: Purchasing Agent's Review.

- (1) The Purchasing Agent shall make such review as he deems appropriate concerning the conformity of the vendor selection with the applicable rules and procedures of the Purchasing Agent's Division. If he approves the selection, he shall so notify the selected bidder, but award shall not be deemed to be made until a contract has been approved under Section 5.86. The Contracting Team, with the assistance of the Purchasing Agent, shall confer with the selected vendor and prepare a purchase order or other contract appropriate to the transaction and submit the contract (before signature) to BSPP, together with the report submitted under Section 5.70.
- (2) If the Purchasing Agent does not approve the selection, he shall so notify BSPP, and a joint review shall be made in the manner provided in Section 5.49.

5.72 - 5.74: [Reserved].

VENDOR SELECTION - NON-COMPETITIVE SELECTION

5.75: Review of Specifications.

- (1) The Selection Board shall review the Technical and Business Specifications prepared by the Agency and make such corrections and additions as it deems necessary.
- (2) The Technical Specifications may include inspection and acceptance requirements. Technical Specifications may be expressed as functional or performance specifications, and may differentiate between mandatory (minimum) and desired characteristics. Pursuant to Section 5.32(2), a Statement of Work may be used instead of, or in addition to, Technical Specifications, when the procurement is for Services only.
- (3) The Business Specifications may include bonding or other security requirements, and may include specific contract provisions, which may differentiate between mandatory and desired terms.

5.76: Solicitation of Proposal.

- (1) The Selection Board shall notify the vendor selected under Section 5.36 to submit a proposal.
- (2) The notification shall contain:
 - (a) the Technical Specifications;
 - (b) the Business Specifications;
 - (c) instructions and information concerning proposal submission requirements; and
 - (d) a statement that the selected vendor may be required to discuss or clarify its proposal;
- (3) In the discretion of the Selection Board, the notification may include:
 - (a) a performance schedule;
 - (b) the maximum time to be allowed for contract negotiation and award;
 - (c) requirements for a demonstration, benchmark, presentation or other evidence of responsiveness; and

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- (d) any other instructions or information consistent with these regulations.

5.77: Review of Proposal.

- (1) The Selection Board shall review the proposal and report their recommendations to BSPP and the Purchasing Agent. They shall include the proposal, and their comments, with the report.

5.78: Review of Selection Board Report.

- (1) Review of the Selection Board report shall proceed in the same manner provided in Section 5.49. If the final action under that section is to proceed with the selected vendor, then Section 5.51 pertaining to the conduct of negotiation shall apply so far as the context permits. Award shall not be deemed to be made until a contract has been approved under Sections 5.86.

5.79: [Reserved].

VENDOR SELECTION - EMERGENCY SELECTION

5.80: Vendor Selection.

- (1) The Selection Board shall select a vendor by such means as the Director of BSPP, with the concurrence of the Purchasing Agent, deems appropriate to meet the emergency.
- (2) Notwithstanding paragraph (1), vendor selection shall be accomplished with as much competition as is practicable in the circumstances, such as simultaneous discussions with several vendors, or the solicitation of quotes or proposals by letter or telephone.
- (3) The Selection Board shall deliver a written report of their activities and recommendations to BSPP and the Purchasing Agent.

5.81: Review of Selection Board Report.

- (1) Review of the Selection Board report shall proceed in the same manner provided in Section 5.49, except that with the permission of BSPP and the Purchasing Agent, the Contracting Team may proceed under Section 5.82 pending (and subject to) review and approval of the Selection Board report.

5.82: Preparation of Contract.

- (1) If the vendor selection method was a variation of the competitive proposals procedure, or of the non-competitive procedure, the Purchasing Agent shall notify the Contracting Team to begin contract negotiation with the selected offeror. Section 5.51 pertaining to the conduct of negotiations shall apply so far as the context permits. Award shall not be deemed to be made until negotiations are concluded and a contract has been approved under Section 5.86.

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- (2) If the vendor selection method was a variation of the competitive bidding procedure, or of the small purchases procedure, the Contracting Team shall confer with the selected bidder, prepare the contract for signature and submit it (before signature) to BSPP. Award shall not be deemed to be made until a contract has been approved under Section 5.86.

5.83 - 5.84: [Reserved].

CONTRACT ADMINISTRATION

5.85: BSPP's Review of Contract.

- (1) BSPP shall review each contract prepared under Sections 5.51, 5.63, 5.72 or 5.82. If BSPP approves the contract, the Director of BSPP shall record his approval on the Request Form and notify the Commissioner of his approval.
- (2) If BSPP disapproves the contract, it shall notify the chairperson of the Contracting Team indicating the reasons, and the modifications required for its resubmission.
- (3) BSPP shall disapprove the contract if it determines that:
 - (a) The contract is inconsistent with the terms and conditions of the Solicitation;
 - (b) The contract is inconsistent with any applicable statute, regulation or executive order; or
 - (c) The contract terms are, in its judgement, imprudent or otherwise contrary to the best interests of the Commonwealth.

5.86: Commissioner's Review of Contract.

- (1) After such review as he deems appropriate, the Commissioner shall approve or disapprove each contract approved by BSPP. He may disapprove for any of the reasons listed in Paragraph (3) of Section 5.85. If he approves, he shall record his approval on the Request Form.
- (2) An Agency may appeal to the Commissioner for review of BSPP's disapproval of a contract. If the Commissioner, after such review as he deems appropriate, finds that disapproval was unwarranted or unreasonable, he may approve the contract.

5.87: Execution and Filing of Contract.

- (1) BSPP shall arrange for signature of each contract approved by the Commissioner, and file one signed original copy of the contract in the Office of the Comptroller. The Comptroller shall note the date of

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filing on the Request Form and return the Request Form to BSPP.

- (2) BSPP shall also arrange with the Chairman of the Selection Board for notices to unsuccessful offerors or bidders under Sections 5.52 or 5.64.
- (3) No contract for ADP Resources shall be binding on the Commonwealth, and no payments shall be made to the Contractor, unless and until the contract has been approved by the Commissioner under the preceding section and accepted for filing by the Comptroller.
- (4) Payments under Consultant Contracts, and the making and approval of such contracts, are subject to the conditions and limitations of M.G.L. c. 29, s. 29A, and c. 7, s. 14A.

5.88: Duration of Contracts.

- (1) A contract may be entered into for any period of time deemed to be in the best interests of the Commonwealth, provided that the term of the contract (including any periods of renewal or extension) shall not exceed any maximum term stated in the Solicitation. The approvals and certifications contained in the Request Form which resulted in the procurement shall be deemed to continue in the succeeding fiscal years within the contract term, unless approval or certification is affirmatively amended or revoked; but payment and performance obligations of contracts shall always be contingent upon the appropriation and allocation of funds.

5.89: Blanket Hardware Contracts.

- (1) Subject to applicable rules and procedures of the Purchasing Agent's Division, BSPP may solicit proposals for one or more Blanket Hardware Contracts for common items of Hardware when the Director of BSPP determines:
 - (a) that there are likely to be numerous Requests by several Agencies for those items; and
 - (b) that the resources expended to conduct a separate procurement for each such Request would be excessive, relative to the cost of such items.
- (2) The following conditions shall apply to all Blanket Hardware Contracts:

- (a) The Solicitation shall be public, in the manner of solicitations by Agencies for competitive proposals under these regulations.
 - (b) Blanket Hardware Contracts may be made with one or more vendors responding to the Solicitation, but no Blanket Contract shall grant exclusive rights to any Contractor or obligate the Commonwealth to acquire Hardware in any minimum quantity or amount.
 - (c) All Blanket Hardware Contracts resulting from the same Solicitation shall be of equal duration and shall contain substantially the same terms and conditions.
- (2) With the approval of BSPP, an Agency may place an order under a Blanket Hardware Contract in lieu of a separate procurement, but only if a Request for the items ordered has been approved under Section 5.36, and the order document is approved under Section 5.86.
- (3) The terms and conditions in a Blanket Hardware Contract shall be deemed incorporated into any order placed under it, and shall not be amended or superseded by anything contained in an order.

5.90: Monitoring of Contracts.

- (1) Agencies shall respond promptly to questions by BSPP about Contractors' performance of contracts made and approved under these regulations. Written questions shall be answered in writing.

REGULATORY AUTHORITY: M.G.L. c. 29, ss. 27B and 29;
M.G.L. c. 7, ss. 4 and 22

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

OFFICE OF MANAGEMENT INFORMATION SYSTEMS

BUREAU FOR SYSTEMS POLICY AND PLANNING

REQUEST FOR AUTHORIZATION - ADP PROCUREMENT UNDER 801 CMR 5.00

Form AF-29 Rev. 12/82

Agency Name			Agency Subdivision		Agency Code	BSPP File Number	
Appropriation Number	Subs.*	Obj. Code	Source of funds <input type="checkbox"/> State <input type="checkbox"/> Federal <input type="checkbox"/> Other _____			Agency Seq. No.	
Procurement Coordinator			(name and title)			(address)	Telephone

This Request is for ☐ Equipment ☐ Software ☐ Services described as follows:

Form of transaction:

- ☐ Purchase
☐ Rental/License
☐ Lease
☐ Fee for service

Estimated contract costs for FY8__, the earliest fiscal year in which payments will be made: \$
FY8__ :\$____ FY8__ :\$____ FY8__ :\$____ Total future fiscal years: \$____
\$

I request authorization to procure the goods and/or services described in the supporting documents filed with this Request in the above-numbered file. The requested items ☐ are ☐ are not specified in schedules for the current fiscal year approved by the House and Senate Ways and Means Committees. I certify that for FY8__, the earliest fiscal year in which payments will be made to the selected contractor, funds sufficient for the purpose: ☐ are specifically available in the indicated appropriation account; ☐ require transfer of funds, per form AF-3 attached; ☐ depend on appropriation for the next fiscal year beginning after the date of my signature.

Officer in charge of Agency:

Print or type name and title _____

(date) _____

I approve the foregoing request and the supporting documents.

Officer in charge of Secretariat:

Print or type name and title _____

(date) _____

ENTRIES BELOW THIS LINE TO BE MADE BY A & F FOLLOWING APPROVAL OF VENDOR SELECTION AND CONTRACT

To the Commissioner: We have reviewed the contract summarized below and recommend its approval.

Director of BSPP

(date) _____

To the Comptroller: I approve the above request and the attached contract, summarized below.

Commissioner of Administration

(date) _____

Contractor's name:

Contractor's address:

Vendor No.: _____ Maximum Obligation: \$ _____

Contract effective from / / to / / .

Summary of other contract terms:

Contract Number

Comptroller's Date Stamp

*If subsidiary 03 is entered in second line, see Guideline G5.87(4) for required changes to this form.

